

CENTER FOR DISABILITY ACCESS
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Samuel Love,

Plaintiff,

v.

Dennis Demontigny;
QC Financial Services Of
California, Inc., a California
Corporation; and Does 1-10,

Defendants.

Case No.

Complaint For Damages And
Injunctive Relief For Violations
Of: American's With Disabilities
Act; Unruh Civil Rights Act

Plaintiff Samuel Love complains of Defendants Dennis Demontigny; QC Financial Services Of California, Inc., a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic who uses a wheelchair for mobility.

2. Defendants are, or were at the time of the incidents, the real property

1 owners, business operators, lessors and/or lessees for California Budget
2 Finance located at or about 16873 Lakeshore Drive, Lake Elsinore,
3 California.

4 3. Plaintiff does not know the true names of Defendants, their business
5 capacities, their ownership connection to the property and business, or their
6 relative responsibilities in causing the access violations herein complained of,
7 and alleges a joint venture and common enterprise by all such Defendants.
8 Plaintiff is informed and believes that each of the Defendants herein,
9 including Does 1 through 10, inclusive, is responsible in some capacity for
10 the events herein alleged, or is a necessary party for obtaining appropriate
11 relief. Plaintiff will seek leave to amend when the true names, capacities,
12 connections, and responsibilities of the Defendants and Does 1 through 10,
13 inclusive, are ascertained.

14
15 **JURISDICTION & VENUE:**

16 4. This Court has subject matter jurisdiction over this action pursuant to
17 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans
18 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19 5. Pursuant to pendant jurisdiction, an attendant and related cause of
20 action, arising from the same nucleus of operative facts and arising out of the
21 same transactions, is also brought under California's Unruh Civil Rights Act,
22 which act expressly incorporates the Americans with Disabilities Act.

23 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is
24 founded on the fact that the real property which is the subject of this action is
25 located in this district and that Plaintiff's cause of action arose in this district.

26
27 **FACTUAL ALLEGATIONS:**

28 7. The Plaintiff went to California Budget Finance in February 2015, to

1 get a payday loan.

2 8. California Budget Finance is a facility open to the public, a place of
3 public accommodation, and a business establishment.

4 9. Parking spaces are one of the facilities, privileges and advantages
5 offered by defendants to their customers at California Budget Finance.

6 10. Unfortunately, there is not a single compliant handicap-accessible
7 parking space in the parking lot for use by persons with disabilities. Instead,
8 there is a parking space in front of the business that is ostensibly reserved for
9 persons with disabilities that is not compliant. It has no access aisle
10 whatsoever. It would be dangerous for plaintiff to use the parking space
11 provided.

12 11. On information and belief, plaintiff alleges that compliant parking
13 spaces reserved for persons with disabilities used to exist in the parking lot.
14 Plaintiff believes that the access aisle has been allowed to fade, however.

15 12. Defendants, have no procedure in place to prevent its disabled parking
16 spaces from fading to oblivion. As such, the compliant parking space is no
17 longer available for persons with disabilities who want to patronize California
18 Budget Finance.

19 13. The plaintiff personally encountered this problem. This inaccessible
20 parking lot denied the plaintiff full and equal access and caused him
21 difficulty.

22 14. Plaintiff would like to return and patronize California Budget Finance
23 but will be deterred from visiting until the defendants cure the violation.
24 Plaintiff lives in Riverside County and shops and travels within the County on
25 a regular basis. He would like to return.

26 15. The defendants have failed to maintain in working and useable
27 conditions those features required to provide ready access to persons with
28 disabilities.

1 16. Given the obvious and blatant violations, the plaintiff alleges, on
2 information and belief, that there are other violations and barriers on the site
3 that relate to his disability. Plaintiff will amend the complaint, to provide
4 proper notice regarding the scope of this lawsuit, once he conducts a site
5 inspection. However, please be on notice that the plaintiff seeks to have all
6 barriers related to his disability remedied. See *Doran v. 7-11*, 506 F.3d 1191
7 (9th Cir. 2007) (holding that once a plaintiff encounters one barrier at a site,
8 he can sue to have all barriers that relate to his disability removed regardless
9 of whether he personally encountered them).

10 17. Additionally, on information and belief, the plaintiff alleges that the
11 failure to remove these barriers was intentional because: (1) these particular
12 barriers are intuitive and obvious; (2) the defendants exercised control and
13 dominion over the conditions at this location and, therefore, the lack of
14 accessible facilities was not an “accident” because had the defendants
15 intended any other configuration, they had the means and ability to make the
16 change.

17
18 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**
19 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all
20 defendants (42 U.S.C. section 12101, et seq.)

21 18. Plaintiff repleads and incorporates by reference, as if fully set forth
22 again herein, the allegations contained in all prior paragraphs of this
23 complaint.

24 19. Under the ADA, it is an act of discrimination to fail to ensure that the
25 privileges, advantages, accommodations, facilities, goods and services of any
26 place of public accommodation is offered on a full and equal basis by anyone
27 who owns, leases, or operates a place of public accommodation. See 42
28 U.S.C. § 12182(a). Discrimination is defined, inter alia, as follows:

- a. A failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the accommodation would work a fundamental alteration of those services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- b. A failure to remove architectural barriers where such removal is readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are defined by reference to the ADAAG, found at 28 C.F.R., Part 36, Appendix “D.”
- c. A failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs or to ensure that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities. 42 U.S.C. § 12183(a)(2).

20. Pursuant to 28 C.F.R., Part 36, Appendix D (herein after “1991 Standards”), section 4.1.2, and 36 C.F.R., Part 1191, Appendix B (herein after “2010 Standards”), section 208.2, if a business provides between 1 and 25 parking spaces, they must provide at least one handicap parking space that is van accessible (having an eight foot access aisle).

21. Here, the defendants did not provide a single compliant handicap-accessible parking space in its parking lot.

22. A public accommodation must maintain in operable working condition those features of its facilities and equipment that are required to be readily accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

1 23. Here, the failure to ensure that the accessible facilities were available
2 and ready to be used by the plaintiff is a violation of the law.

3 24. Given its location and options, California Budget Finance is a business
4 that the plaintiff will continue to desire to patronize but he has been and will
5 continue to be discriminated against due to the lack of accessible facilities
6 and, therefore, seeks injunctive relief to remove the barriers.

7
8 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
9 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §
10 51-53)

11 25. Plaintiff repleads and incorporates by reference, as if fully set forth
12 again herein, the allegations contained in all prior paragraphs of this
13 complaint.

14 26. Because the defendants violated the plaintiffs' rights under the ADA,
15 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.
16 Code § 51(f), 52(a).)

17 27. Because the violation of the Unruh Civil Rights Act resulted in
18 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are
19 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §
20 55.56(a)-(c).)

21
22 **PRAYER:**

23 Wherefore, Plaintiff prays that this court award damages and provide
24 relief as follows:

25 1. For injunctive relief, compelling defendants to comply with the
26 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
27 Plaintiffs are not invoking section 55 of the California Civil Code and is not
28 seeking injunctive relief under the Disabled Persons Act at all.

1 2. Damages under the Unruh Civil Rights Act which damages provide for
2 actual damages and a statutory minimum of \$4,000.

3 3. Reasonable attorney fees, litigation expenses and costs of suit,
4 pursuant to 42 U.S.C. § 12205; Cal. Civ. Code § 52.

5
6 Dated: March 12, 2015

CENTER FOR DISABILITY ACCESS

7
8 By: 
9 Mark Potter, Esq.
Attorneys for Plaintiff